

**AFFIDAVIT OF TIMOTHY BUCKLEY**

I, Timothy Buckley, having personal knowledge, do hereby depose and state as follows:

1. My name is Timothy Buckley, and I am Senior Advisor to Governor Charles D. Baker. I have been employed as Senior Advisor to the Governor since March 2016 and previously served as Communications Director for Governor Baker between January 2015 and March 2016. In my role as Senior Advisor, I oversee the Communications Office within the Governor's Office, and from time to time I speak directly to the media to express the views of Governor Baker and Lieutenant Governor Polito.

2. On December 7, 2020, the Boston Globe published an article reporting that a number of public health experts and mayors in cities surrounding Boston were urging Governor Baker to tighten restrictions on businesses to respond to a rise in COVID-19 infections in the early days of December. (It appears that the article was posted to the Globe on-line edition sometime on December 6, 2020.) In the article, I responded by pointing out that in early November, the Governor had taken action to require early closings for restaurants and other businesses. The Globe story then accurately quoted me as stating the following: "There are no imminent new measures . . . but the administration has long said every option is on the table."

3. I employed the phrase "every option is on the table" in order to communicate the idea that the Baker-Polito Administration would continue to monitor the public health data, that the decision as of December 6 not to impose tighter controls did not rule out a later adjustment, and that the Administration would continue to consider all rational policy alternatives for responding to the rise in COVID-19 cases. That is consistent with the approach that the

Administration has followed and the public messaging it has employed to explain its actions since the Governor declared a state of emergency on March 10, 2020.

4. I am not a lawyer. I have never read the United States Supreme Court's decision in District of Columbia v. Heller, and I have never discussed the decision with the Governor or the Lieutenant Governor. Until it was brought to my attention following this Court's inquiry, I was unaware that the Heller decision includes language stating that the United States Constitution "takes certain policy choices off the table." It was not my intent, in using the phrase "every option is on the table," to express any disregard for Heller. My statement that "every option is on the table" also was not intended to convey anything specifically about a plan for COVID restrictions on gun retailers or shooting ranges.

5. The Governor's Communications Office and the Governor himself regularly use the phrase "every option is on the table" to communicate the idea that the Administration remains open to the widest possible range of solutions to any particular challenge. We have not limited use of the phrase to the discussion of measures relating to State government's on-going response to the COVID-19 pandemic.

6. I have attached to this affidavit several examples of public statements during 2020 in which the Governor has used some variant of the phrase "on the table" or "off the table" in the sense I have described above. These examples were turned up by a search of the Governor's prepared remarks and typed transcripts of his remarks at press conferences over that period, all of which are maintained by the Governor's Press Office. The Governor's Office does not maintain official or notarized transcripts of the Governor's press conferences. Members of the Press Office create unofficial transcriptions by listening to recordings of the press conferences and, to their best ability, typing out an accurate record of Governor's remarks. The Press Office

regularly maintains these records for its own use. To the best of my knowledge, the attached examples represent true and accurate transcriptions of the Governor's remarks at the times specified for each entry.

7. I certify that, to the best of my knowledge and belief, the statements above are true and correct.

Signed under the pains and penalties of perjury this 30th day of December, 2020



Timothy S. Buckley

Exhibit A to Affidavit of Timothy Buckley

**3/30/2020 – Press Conference (Gardner Auditorium)**

QUESTION: There were reports over the weekend that parks were overcrowded, certain outdoor areas. Do you think people are taking the stay-at-home advisory seriously, and would you consider fining people who don't?

GOV. BAKER: So, the first thing I would say is yes, I do think people are taking this seriously. I mean, I- I mean, I can't, I can't speak for everyone, but what I can tell you is almost every community in Massachusetts has posted at some point before and after pictures of what their downtowns and their communities and their roadways look like before we put the stay at home advisory and the essential business order in place, and what it looks like afterwards. And it's, and you just need to look at the traffic on the public transportation system to know how much different things are now than they were once upon a time. I think the issue with respect to the outdoors, is, is a complicated one. On the one hand, to deny people an opportunity to go outside, when we've already denied them an opportunity to go to a restaurant, or go to work, or go to so many other places...I think people need to be able to go outside and I know that Secretary Sudders would say that for the mental health of people they need to be able to go outside, and certainly having people practice appropriate social distancing when they do is critically important. And I can tell you that in the places and spaces where I saw people outside over the weekend, there were a lot of them, but people were, you know, maybe a clump of two or three, but for the most part they did a pretty good job of not congregating in big tight groups. I do think this is going to be an ongoing issue for us, and one we're going to continue to have to discuss with our colleagues in state and local government, and with our colleagues in the public health community, based on what we see happening in places around the Commonwealth, and I'm not taking any options off the table.

**8/4/2020 – Press Conference (Boston MedFlight, Hanscom Airfield)**

GOV. BAKER (REMARKS AS PREPARED): I cannot say this enough: COVID is not taking the summer off and neither can we.

It is critical that folks remain vigilant in their daily activities. Please continue to wear face coverings, practice social distancing and stay home if you aren't feeling well.

We aren't taking any options off the table when it comes to fighting COVID.

Reopening the Commonwealth, getting back to a new normal depends on everyone doing their jobs.

While we have only ticked up from a low of 1.7% positive rate to today's 2.0%, we will be forced to adjust the reopening plans if the data warrants it.

**8/25/2020 – Press Conference (WheelWorks, Belmont)**

QUESTION: Governor, the T said they're really struggling and will have to consider fare hikes and/or budget cuts. Your thoughts on that and anything that can be done to help?

GOV. BAKER: Well, first thing I'd say about the T is they are obviously working through an enormously difficult and disruptive period. I mean, the change in ridership for the MBTA on every platform between, you know, March and, the beginning of March and the end of March, not to mention the end of March to now, has been profound and unprecedented. And there's a lot of debate and discussion about when they'll start to see ridership come back, but I think, I think one of the good things about the T's decision to start talking about this now is they're thinking about it as a two-year issue, and they're starting to plan for it two or three months into the current fiscal year, and I think they're smart in saying nothing's off the table, I think they're smart in starting early on this, and I think they're thinking the right way about the fact that ridership represents, historically, about 50% of their revenue base, 40-50% depending upon the year. It's pretty clear that that kind of expectation with regard to riders, unless there's a pretty significant change in both employer behavior and employee behavior, is probably not going, is not going to move immediately. And that's not just true for the T, I mean if you think about Logan Airport, I think Logan Airport's total book of business is probably down about 80 or 90% from where it was before the pandemic hit, too. I mean, travel, transportation, leisure, hospitality, entertainment, those are the places and spaces where this thing has really created some enormous difficulties and challenges for all of us. But I'm glad the T is starting now, it would be a mistake to wait until February or March of next year to start talking about what to do about this.

**12/7/2020 – Press Conference (Gardner Auditorium)**

GOV. BAKER (REMARKS AS PREPARED): We must continue fighting COVID so we can keep our schools and economy open.

As I have said before, our public health experts are constantly evaluating public health data and all options are on the table if infections and hospitalizations keep climbing.

We are in the holiday season. I know folks are tired of dealing with COVID-19. But this disease is highly contagious and can be dangerous for some.

Please continue to make smart choices and abide by state guidelines.

**12/21/2020 – Press Conference (Gardner Auditorium)**

GOV. BAKER (REMARKS AS PREPARED): If the holiday season produces a surge in infections like we saw from Thanksgiving, we will be in serious danger of overwhelming our hospitals.

Right now every option is on the table and we are reviewing additional restrictions.

But the tools we have at our disposal cannot stop this virus alone.

We need everyone to think really hard about their actions this holiday season.

We are begging everyone to stay home – just this year. We can celebrate like we want to next year.

**CERTIFICATE OF SERVICE**

I certify that this document, filed through the Court's ECF system, will be sent electronically to registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Julia E. Kobick

Julia E. Kobick

Assistant Attorney General